

Recording requested by:

City of Boise City  
150 N. Capitol Boulevard  
PO Box 500  
Boise, Idaho 83701-0500  
Attn: City Attorney's Office

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## DEVELOPMENT AGREEMENT West End

This Development Agreement (this "**Agreement**") is made and entered into by and between City of Boise City, an Idaho municipal corporation ("**City**"), and The Whitewater Project, LLC, a Delaware limited liability company ("**Developer**") , effective as of April 1, 2016 ("**Effective Date**"). City and Developer may be referred to herein as the "parties" or a "party" as the case may be.

### RECITALS

- A. Developer owns the parcels of real property legally described in Exhibit A (the "**Property**").
- B. City owns the parcel of real property legally described in Exhibit B (the "**Street Extension Parcel**"), which parcel is subject to that certain Declaration of Street Easement recorded of even date herewith as Instrument No. \_\_\_\_\_ (the "**Street Easement**").
- C. Developer acquired the Property pursuant to an exchange agreement whereby, among other things, the parties agreed to enter into a development agreement to ensure that the future development of the Property and the Street Extension Parcel is consistent with City's planning and development goals.
- D. Accordingly, City and Developer desire to enter into this Agreement to govern the future development of the Property and the Street Extension Parcel.

### AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

#### 1. **Conceptual Plans.**

a. *General.* Developer will develop the Property as a mixed-use project with urban retail, residential and parking components that create a "sense of place" consistent with the vision expressed by the policies and guidelines of the applicable City comprehensive planning documents (including the Boise Development Code, the Boise City Comprehensive Plan, the 30th Street Area Master Plan and the Boise Downtown Design Standards and Guidelines).

b. *Submission; Components.* Within twelve (12) months after the Effective Date, Developer will submit to City for approval a conceptual site plan, massing plan, phasing plan and detailed Street Extension plans showing streetscape (collectively, the "**Conceptual Plans**") for the Property and the Street Extension Parcel consistent with Section 1. The Conceptual Plans will include the following:

- i. A street, sidewalks and related landscaping/streetscape (the "**Street Extension**") on the Street Extension Parcel, subject to adjustments or relocations indicated in an approved Conceptual Plan. The Street Extension (and construction) is to include utilities necessary to support the development contemplated by the Conceptual Plans. Some elements of the Street Extension may be located within additional right-of-way or easements outside of the Street Extension Parcel. The Street Extension may be either (a) a public street,

designed and constructed to the applicable Ada County Highway District ("ACHD") local street standards, or (b) a "living street" design that does not reflect ACHD local street standards, but instead has features, finishes and other elements intended to encourage pedestrian use. "Living street" features may include vehicle traffic use limitations, including, but not limited to, vehicle type limitations, directional restrictions, speed control features and closure of some portions of the street to vehicle traffic during some days or portions of days;

- ii. At least fifty (50) residential units, of which at least ten (10) residential units will comply with the Low-Income Covenants (defined in Section 3 below);
- iii. An east-west publically accessible (but not necessarily dedicated to the public) pathway through the Property;
- iv. Accommodation for public transit on Main Street or Fairview Avenue; and
- v. At least one Lot or group of Lots (as defined in Section 4(b)) large enough in area to permit entitlement approval for the construction of at least fifty (50) units of residential housing will be identified as the "Housing Lot(s)."

c. *Public Input.* At least fifteen (15) days before submitting its proposed Conceptual Plans to City, Developer will hold at least one (1) neighborhood meeting to allow the public to review the Conceptual Plans and provide input to Developer. The meeting must be noticed and held in same manner as neighborhood meetings under Boise Development Code. Developer agrees to specifically invite City, Capital City Development Corporation ("CCDC"), owners of property within 300 feet of the Property and the Veteran's Park Neighborhood Association, Inc.

d. *City Review.*

- i. City, through its City Council, will review the Conceptual Plans for compliance with this Agreement promptly after submission thereof, which is estimated to be within thirty (30) days of submittal. City will either in writing: (a) approve the Conceptual Plans or (b) notify Developer of the specific Conceptual Plan elements not approved, the basis of the disapproval (i.e., the specific element of this Agreement not met) and the actions Developer may take to get approval. Developer will promptly revise disapproved elements of the Conceptual Plans, and resubmit to City for approval. The foregoing process will repeat until the Conceptual Plans are approved.
- ii. The parties acknowledge that the Street Extension Parcel (and Street Easement) may need to be adjusted or relocated to reflect market considerations, applicable law and preferences of ACHD or CCDC (if the Street Extension is to be dedicated to ACHD or granted to CCDC). If the Conceptual Plans include a proposed adjustment or relocation of the Street Extension Parcel, the proposed adjustment or relocation of the Street Extension Parcel will comply with applicable law regarding exchanges of equal value. If City approves the Conceptual Plans with an adjusted or relocated street as described herein, it will promptly execute (a) an exchange agreement with Developer to adjust the Street Extension Parcel and its adjacent lands to reflect the adjustment approved in the Conceptual Plans, and (b) an amendment to the Street Easement to reflect the adjusted or relocated Street Extension Parcel. City hereby approves any relocation of the Street Extension Parcel to the eastern boundary of the Property and aligned with 28<sup>th</sup> Street in a manner acceptable to ACHD, so long as the relocation meets the terms and conditions of this Agreement.

e. *Amendments.* Developer may propose amendments to the Conceptual Plans from time-to-time, which amendments will be submitted to City Council for review and approval. City Council will review the proposed amendment as soon as reasonably practical after submission, which is estimated to be within thirty (30) days of such submittal. After review, City will either in writing: (a) approve the proposed

amendment or (b) notify Developer of the specific element of the proposed amendment not approved, the basis of the disapproval and the actions Developer may take to get approval. Developer may revise proposed amendment and resubmit to City for approval. The foregoing process will repeat until the proposed amendment is approved or withdrawn.

f. *Entitlements.* The process contained in this Agreement is separate from any required entitlement approvals required for development of the Property. City's approval of the Conceptual Plans is not an entitlement authorizing any development and is not an approval of any variance from this Agreement or applicable laws. Developer is obligated to secure all entitlements, permits and other approvals required for its intended development of the Property at its cost. In the event of a conflict between this Agreement and the Boise City Code, the Boise City Code will control.

## 2. **Street Extension.**

a. *Street Extension License.* City grants Developer (a) a license to, prior to the commencement of construction of the Street Extension, use and occupy the Street Extension Parcel as if the Street Extension Parcel was owned by Developer, and (b) a license to design, develop and construct the Street Extension pursuant to this Agreement and applicable laws (the "**Street Extension License**"). The Street Extension License will not be revoked unless Developer is in default of its obligations under Section 2.b and City elects to commence construction of the Street Extension. If a demand or claim is made against City for any personal injury or property damage with respect to Developer's construction of the Street Extension, Developer will indemnify, defend, and hold City harmless for all third-party damages or expenses reasonably incurred thereby; provided, however, nothing herein will obligate Developer to hold City harmless for any damages or expenses (i) caused by any negligence or fault of City or its employees, agents or contractors or (ii) arising from any use or occupancy of the Street Extension Parcel by City or its employees, agents, contractors, invitees or licensees.

b. *Construction Obligation.* Developer agrees to construct the Street Extension pursuant to approved Conceptual Plans by the earlier of (a) within twelve (12) months after the City approves the Street Extension component of the Conceptual Plans and executes any related exchange agreement, or (b) within three (3) years after the Effective Date. Developer will pay all design, permit, construction, inspection and dedication expenses related to the Street Extension; provided, however, Developer may pursue any available incentives, reimbursements or cost sharing available. The Street Extension will be deemed complete upon completion of the Street Extension improvements identified in the approved Conceptual Plans; provided, however, if the Street Extension is to be dedicated to ACHD, the Street Extension will be deemed complete on its acceptance by ACHD.

c. *No Conveyance until Completion.* Developer will not assign, transfer or convey fee simple title to any Lot without City's prior written consent (which consent will not be unreasonably withheld) until the Street Extension is complete.

d. *Street Extension Performance Security.* Within fifteen (15) days of Developer's request, which request will be accompanied by such expense documentation as may be reasonably requested by City, City will release funds from the Street Extension Performance Security provided by the Developer as of the closing of the exchange agreement to Developer to reimburse Developer for expenses incurred in the design and construction of the Street Extension; provided, however, City will not be obligated to release funds to Developer if such release would result in the Street Extension Performance Security balance being less than 110% of the funds required to complete the Street Extension. In the event the Street Extension costs more than the Street Extension Performance Security for any reason, Developer will complete the Street Extension at Developer's sole cost and expense. If Developer is in default of its obligations under Section 2.b, City may use the Street Extension Performance Security to complete Developer's Street Extension obligations. In any event, upon completion of the Street Extension, City will promptly return the remaining balance of the Street Extension Performance Security to Developer, if any.

e. *Street Extension Maintenance.* The City, or successor owner of the Easement Area shall, at its own expense, keep the Easement Area in good condition and repair, and shall maintain, restripe,

repair and resurface the paved surfaces on the Easement Area in a level, smooth and evenly covered condition, comparable to public street maintenance standards.

### 3. Low Income Housing.

#### a. Low Income Units.

- i. The Property will have at least ten (10) residential dwelling units (the "**Low Income Units**") that are affordable to persons of "low income" for a period of forty (40) years from the date of building permit issuance for each respective Low Income Unit. At least one Low Income Unit must be accessible to individuals with mobility impairment or sensory impairment.
- ii. As used herein, "low income" means 80% of "Area Median Income" for the Boise City – Nampa, ID HUD Metro FMR Area as defined by the U.S. Department of Housing and Urban Development (currently available at <https://www.huduser.gov/portal/datasets/il.html>) ("**80% AMI**"). The base rent (excluding utilities, if any) in each Low Income Unit cannot exceed 30% of the applicable 80% AMI, pursuant to the following:

Size	Standard for Calculating Maximum Rent	Example of Maximum Rent using 80% AMI currently in effect
4-bedroom	30% x 80% AMI for 4 persons	30% x \$48,250 = \$1,206
3-bedroom	30% x 80% AMI for 3 persons	30% x \$43,450 = \$1,086
2-bedroom	30% x 80% AMI for 2 persons	30% x \$38,600 = \$965
1-bedroom	30% x 80% AMI for 1 person	30% x \$33,800 = \$845
Efficiency	30% x 80% AMI for 1 person, less the average difference in rents calculated above	30% x \$33,800 - \$120 = 725

Nothing herein shall limit the occupancy of any unit by any number of persons in accordance with applicable law.

b. *Buildings with Low Income Units.* Each building on the Property containing any Low Income Units will: (a) have residential units that are not Low Income Units (b) distribute the Low Income Units throughout the building; and (c) have the Low Income Units therein be a mix of units (i.e. single room occupancy, one bedroom, two bedroom units) that is generally similar to the mix of units in the rest of the building.

c. *Conveyance of Lots with Low Income Units.* If any Lot conveyed pursuant to Section 4.c is intended to have any Low Income Units, Developer will record covenants in the form attached hereto as Exhibit C (or otherwise as acceptable to City) (the "**Low Income Covenants**") against the Lot in the real property records of Ada County prior to conveyance to the purchaser thereof. Developer will provide a copy of the recorded Low Income Covenants to the City within thirty (30) days' after conveyance. The Low Income Covenants will run with the land as provided therein and survive any future conveyance of the Lot, any termination of this Agreement and any release of the Lot from this Agreement.

### 4. Development of Property.

a. *Generally.* Developer agrees to develop the Property in accordance with the Conceptual Plans, this Agreement, and applicable law. Developer will endeavor to develop the Property as expeditiously as market conditions and good practices allow, but City agrees that, except as provided in Section 2(b) and Section 4(c), Developer is not obligated to develop the Property on any particular

schedule. Developer will be responsible for all entitlement, development, and related costs for development of the Property, including, but not limited to permit, building, fees, connection fees, at its sole cost and expense; provided, however, Developer may pursue any available incentives, reimbursements or cost sharing available.

b. *Definitions.* A "Lot" is any legal, buildable parcel of the Property however existing or created (e.g., by lot line adjustment, density reduction or subdivision). Developer may only create Lots in accordance with applicable law and the Conceptual Plans. A "Developed Lot" is a Lot that has received occupancy permits from City for structures approved and fully constructed pursuant to this Agreement.

c. *Future Conveyance of Lots.*

i. After completion of the Street Extension as required in Section 2, Developer may (subject to Section 4.c(ii)) convey any Lot to any party (a "Future Owner") so long as Developer assigns, and the Future Owner assumes, all of Developer's rights, obligations, and liabilities under this Agreement with respect to the Lot in a written instrument that is concurrently recorded against the Lot in the real property records of Ada County, Idaho. Such instrument will state that this Agreement is several with respect to such Lot, and the purchaser of the Lot will be the "Developer" with respect to such Lot, and City will have the right and ability to enforce any and all provisions of this Agreement with respect to such Lot against the Future Owner.

ii. Developer may not convey the Housing Lot(s) without City's consent unless and until at least fifty (50) residential units, of which at least ten (10) are subject to the Low Income Covenants, have been developed on the Property; provided, however, Developer may request City to consent to such conveyance if the Future Owner of the Housing Lot(s) provides assurances acceptable to City that the Future Owner will meet the remainder of Developer's obligation to develop at least fifty (50) residential units on the Housing Lot(s), of which at least ten (10) residential units will be subject to the Low-Income Covenants.

d. *Release from Agreement.* If all terms of this Agreement have been met with respect to any Lot, City will provide Developer, in recordable form, with a termination of this Agreement for any Developed Lot. Any such termination will terminate only this Agreement and not any previously or concurrently recorded covenants intended to perpetually run with the land. Additionally, as specified above, City is not required to release the Developed Lot if it is the last Developed Lot and the Housing Covenants have not been met for the Property.

e. *Repurchase Option.* If Developer fails to develop (i) the Street Extension (whether constructed by Developer or City); (ii) at least fifty (50) residential units, of which at least ten (10) residential units will be affordable to persons of low income; and (iii) at least 10,000 square feet of office or retail space on the Property within five (5) years from the Effective Date; then City will have the option to purchase any Lot that is not a Developed Lot for such Lot's then current market value on the terms set forth on Exhibit D; provided, however, if Developer has received building permits from City to develop a Lot, City will not have the option to purchase such Lot unless and until the building permits expire. If City purchases any Lot pursuant to the option, this Agreement will automatically terminate upon the conveyance of such Lot.

## 5. **Default; Remedies.**

a. Neither party will be deemed to be in default of this Agreement until the non-defaulting party gives the defaulting party a written notice of specifying the asserted default in reasonable detail and providing the defaulting party thirty (30) days to cure such default; provided, however, if the default cannot reasonably be cured within such 30-day period, the defaulting party will have a reasonable period to cure such default.

b. If Developer is in default, City may seek specific performance of Developer's obligations and/or may withhold issuance of any development permits or approvals until such default is cured;

provided, however, if the default pertains to one Lot, City may not withhold the issuance of any development permits or approvals pertaining to any other Lot.

c. If City defaults, Developer may seek specific performance of City's obligations.

d. If any demand, claim or action is filed or instituted between the parties to interpret or enforce the terms of this Agreement, the prevailing party will be entitled to receive from the other party its reasonable attorneys' fees and costs.

6. **No Cross-Collateralization.** Developer will not permit any Lot that is not a released Developed Lot to be used as collateral for any loan (a) that is unrelated to the development of the Property or the Street Extension Parcel or (b) that has real estate other than the Property as collateral, without City's prior written consent, which consent will not be unreasonably withheld, provided that the lender agrees to release the Lot if the City exercises an option to repurchase the Lot in accordance with this Agreement.

7. **Indemnity.** If a demand or claim is made against City for any personal injury or property damage with respect to Developer's development of the Property pursuant to this Agreement solely by reason of City having its rights under this Agreement, Developer will indemnify, defend and hold City harmless for all third-party damages or expenses reasonably incurred thereby; provided, however, nothing herein will obligate Developer to hold City harmless for any damages or expenses caused by the negligence or fault of City.

8. **Notices.** Any notice, approval, consent or other communication required or permitted hereunder must be in writing and delivered to the parties' addresses for notices below. Either party may change its addresses from time-to-time by notice to the other party.

If to City:                   City of Boise City  
Attn: Derick O'Neill  
Director, Planning & Development Services  
150 N. Capitol Boulevard  
PO Box 500  
Boise, Idaho 83701-0500  
Email: doneill@cityofboise.org

With a copy of any notice of default or termination to:

City of Boise City  
Attn: Joshua Leonard  
Boise City Attorneys' Office  
150 N. Capitol Boulevard  
PO Box 500  
Boise, Idaho 83701-0500  
Email: aschaus@cityofboise.org

If to Developer:       The Whitewater Project, LLC  
c/o Local Construct, Inc.  
Attn: Mike Brown and Casey Lynch  
3112 Los Feliz Boulevard  
Los Angeles, California 90039  
Email: mike@localconstruct.com; casey@localconstruct.com

With a copy of any notice of default or termination to:

Franklin G. Lee  
GIVENS PURSLEY LLP  
601 W. Bannock Street  
Boise, Idaho 83702  
Email: franklee@givenspursley.com

**9. General.**

a. *Governing Law and Venue.* This Agreement will be governed in all respects by the laws of the state of Idaho. Jurisdiction and venue of any action will be in the District Court of Ada County, Idaho.

b. *Recording; Runs with the Land.* This Agreement is to be recorded in the real property records of Ada County, Idaho. This Agreement will run with the land and, until terminated, will be binding upon, and inure to the benefit of, any party with any right, title or interest in the Property.

c. *Entire Agreement.* This Agreement sets forth the full and complete understanding and agreement of the parties relating to its subject matter, and supersedes any prior or contemporaneous negotiations, agreements, understandings and representations with respect to the subject matter.

d. *Amendment.* This Agreement may only be amended by a document signed by Developer (or, if any Lot is conveyed, Developer of the Lot(s) affected by such amendment) and City. Any amendment will be promptly recorded in the real property records of Ada County, Idaho.

e. *Time.* Time is of the essence. Unless otherwise indicated, all references to a day mean a calendar day, not a business day; provided, however, if a deadline for performance is not a business day, then the deadline will be extended to the next business day.

f. *Severability.* If any provision of this Agreement is invalid, illegal or unenforceable in any respect under applicable law, the validity and enforceability of the remaining provisions of this Agreement will not be affected thereby.

g. *Interpretation.* Where the context requires, words importing the singular will include the plural and vice versa, and words importing persons will include entities. Headings are for convenience of reference only. Where the context requires, any reference to a person, entity or party will include the person's, entity's or party's successors and permitted assigns. The word "include" or "including" are to be construed without limitation. Each party has been represented by legal counsel in drafting and negotiating this Agreement, so the parties agree that the normal rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement.

h. *Recitals and Exhibits.* The recitals and exhibits to this Agreement are incorporated into this Agreement.

i. *Counterparts.* This Agreement may be executed in two (2) counterparts and each counterpart will be deemed an original and both of which will constitute one and the same instrument.

[ end of text; signature page follows ]

DATED effective as of the Effective Date.

"City"

CITY OF BOISE CITY, an Idaho municipal corporation

By:

David H. Bieter  
Mayor

Date:

ATTEST:

By:

  
Lynda Lowry  
Ex Officio City Clerk

Date:

3/17/16

"Developer"

The Whitewater Project, LLC, a Delaware limited liability company

By:

  
Michael J. Brown  
Authorized Signatory

Date:

03/16/16

**Exhibits:**

- Exhibit A – Legal Description of the Property
- Exhibit B – Legal Description of the Street Extension Parcel
- Exhibit C – Low Income Covenants Form
- Exhibit D – Option to Purchase Terms



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

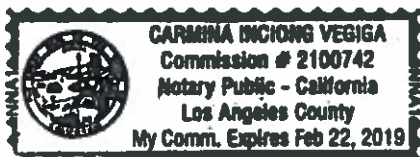
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
 County of LOS ANGELES )  
 On MARCH 16<sup>th</sup>, 2011 before me, CARMINA INCIONG VEGIGA, NOTARY PUBLIC  
 Date Here Insert Name and Title of the Officer  
 personally appeared MICHAEL J. BROWN  
 Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature \_\_\_\_\_  
 Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
 Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

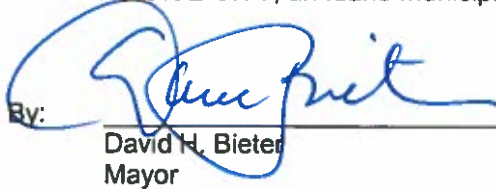
Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_

DATED effective as of the Effective Date.

"City"

CITY OF BOISE CITY, an Idaho municipal corporation

By:   
David H. Bieter  
Mayor

Date: 3/17/16

ATTEST:

By:   
Lynda Lowry  
Ex Officio City Clerk

Date: 3/17/16

"Developer"

The Whitewater Project, LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Michael J. Brown  
Authorized Signatory

Date: \_\_\_\_\_

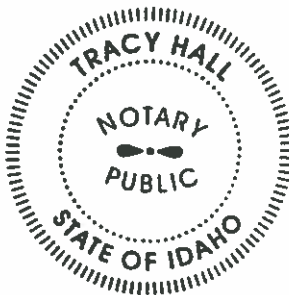
**Exhibits:**

- Exhibit A – Legal Description of the Property
- Exhibit B – Legal Description of the Street Extension Parcel
- Exhibit C – Low Income Covenants Form
- Exhibit D – Option to Purchase Terms

STATE OF IDAHO       )  
                                  ) ss.  
County of Ada        )

On this 17<sup>th</sup> day of March, 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared **David H. Bieter** and **Lynda Lowry**, known or identified to me to be the **Mayor** and **Ex-Officio City Clerk**, respectively, of **City of Boise City**, the municipal corporation that executed the instrument or the person who executed the instrument on behalf of said municipal corporation, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Tracy Hall  
Notary Public for Idaho  
Residing at Base ID  
My commission expires: 12/10/20

STATE OF IDAHO       )  
                                  ) ss.  
County of Ada        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared **Michael J. Brown**, known or identified to me to be the **Authorized Signatory of The Whitewater Project, LLC**, a Delaware limited liability company, the person who executed the instrument on behalf of the company, and acknowledged to me that the company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for Idaho  
Residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_

## EXHIBIT A

### LEGAL DESCRIPTION OF THE PROPERTY

#### PARCEL A Legal Description

*A portion of Lots 6 through 10 of Fischer's Subdivision as recorded on the Official Plat in Book 10 Page 499 in the Office of the Ada County Recorder, City of Boise, Ada County, Idaho. Shown as Parcel A on Record of Survey No. 10423, Instrument No. 2016-020780 in the Office of the Ada County Recorder in Boise ID.*

*More particularly described as follows:*

**Commencing** at the found Brass Cap at the Section Corner common to Sections 4, 5, 8 and 9 of said Township 3 North, Range 2 East:

- A. Thence North 00° 03' 05" West, a distance of 2672.26 feet to the found Aluminum Cap monument marking the ¼ Corner common to said Sections 4 and 5;
- B. thence South 65° 41' 51" East, a distance of 2343.65 feet to the found ½" rebar with an illegible cap marking the intersection of W. Bannock Street and N. 27th Street;
- C. thence along the centerline of said N. 27th Street, South 00°17'06" West 330.02 feet to a P.K. nail marking the intersection of W. Idaho Street and said N. 27th Street;
- D. thence continuing along the projection of said centerline South 00°17'06" West 390.01 feet to a point on the Southerly right-of-way of W. Main Street from which a found ½" iron pin with plastic cap stamped "PLS 7881" marking the Northwest Corner of Lot 6 Block 21 of the West Side Addition as recorded on the Official Plat in Book 2 Page 86, also marking the Northeast Corner of Parcel B of Warranty Deed Instrument No. 101124821, recorded on November 28, 2001 in the Office of the Ada County Recorder, bears South 89° 41' 09" East, a distance of 49.20 feet;
- E. thence along said Southerly right-of-way, North 89° 41' 09" West, a distance of 447.64 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" marking the **POINT OF BEGINNING of PARCEL A**;
- F. thence South 22° 29' 22" East, a distance of 121.66 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- G. thence South 85° 50' 31" West, a distance of 136.46 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" on the east right-of-way of North Whitewater Park Boulevard as described in Warranty Deed Instrument No. 113107760;

- H. thence along said east right-of-way North 34° 21' 15" West, a distance of 103.73 feet to a found 5/8" rebar with plastic cap stamped "PLS 5082";
- I. thence continuing along said right-of-way, North 22° 02' 03" East, a distance of 32.86 feet to a found 5/8" rebar with plastic cap stamped "PLS 5082" at the intersection with the South right-of-way of W. Main Street as defined by Federal Highway Plans (FAP No. U-3021(22)) and the beginning of a non-tangent curve to the right, said curve having a Delta of 002°13'14", a Radius of 1136.42 feet, a tangent length of 22.02 feet, a Long Chord Bearing of N81°14'05" East and a Long Chord length of 44.04 feet;
- J. thence along said south right-of-way as defined by Federal Highway Plans (FAP No. U-3021(22)) and partially defined by Warranty Deed Instrument No. 113107760 and said non-tangent curve to the right an Arc Length of 44.04 feet to a found ½" rebar with plastic cap stamped "PLS 972" at point of non-tangency;
- K. thence continuing along said South right-of-way of W. Main Street, South 89° 41' 09" East, a distance of 92.26 feet to the **POINT OF BEGINNING**.

Containing 17,651 square feet (0.405 acres) more or less.

Subject to Easements and Rights-of-Way of record or not of record.  
Any modification of this description shall render it void.

Fox Land Surveys, Inc.  
Timothy J. Fox, Project Manager, PLS 7612

**END OF DESCRIPTION**

**PARCEL B**  
**Legal Description**

*A portion of Lots 3 through 7 of Fischer's Subdivision as recorded on the Official Plat in Book 10 Page 499 in the Office of the Ada County Recorder, City of Boise, Ada County, Idaho. Shown as Parcel B on Record of Survey No. 10423, Instrument No. 2016-020780 in the Office of the Ada County Recorder in Boise ID.*

*More particularly described as follows:*

**Commencing** at the found Brass Cap at the Section Corner common to Sections 4, 5, 8 and 9 of said Township 3 North, Range 2 East:

- A. Thence North 00° 03' 05" West, a distance of 2672.26 feet to the found Aluminum Cap monument marking the ¼ Corner common to said Sections 4 and 5;
- B. thence South 65° 41' 51" East, a distance of 2343.65 feet to the found ½" rebar with an illegible cap marking the intersection of W. Bannock Street and N. 27th Street;
- C. thence along the centerline of said N. 27th Street, South 00°17'06" West 330.02 feet to a P.K. nail marking the intersection of W. Idaho Street and said N. 27th Street;
- D. thence continuing along the projection of said centerline South 00°17'06" West 390.01 feet to a point on the Southerly right-of-way of W. Main Street from which a found ½" iron pin with plastic cap stamped "PLS 7881" marking the Northwest Corner of Lot 6 Block 21 of the West Side Addition as recorded on the Official Plat in Book 2 Page 86, also marking the Northeast Corner of Parcel B of Warranty Deed Instrument No. 101124821, recorded on November 28, 2001 in the Office of the Ada County Recorder, bears South 89° 41' 09" East, a distance of 49.20 feet;
- E. thence along said Southerly right-of-way, North 89° 41' 09" West, a distance of 304.60 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" marking the **POINT OF BEGINNING** of **PARCEL B** and the beginning of a non-tangent curve to the left, said curve having a Radius of 130.30 feet, a Delta of 032°40'18", a tangent length of 38.19 feet, a Long Chord Bearing of South 15°39'38" East and a Long Chord length of 73.30 feet;
- F. thence along said non-tangent curve to the left an Arc Length of 74.30 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- G. thence South 31° 59' 47" East, a distance of 36.76 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- H. thence South 85° 50' 31" West, a distance of 136.13 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";

- I. thence North 22° 29' 22" West, a distance of 121.66 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" on the southerly right-of-way of W. Main Street;
- J. thence along said southerly right-of-way South 89° 41' 09" East, a distance of 143.04 feet to the **POINT OF BEGINNING**.

Containing 14485 square feet (0.332 acres) more or less.

Subject to Easements and Rights-of-Way of record or not of record.  
Any modification of this description shall render it void.

Fox Land Surveys, Inc.  
Timothy J. Fox, Project Manager, PLS 7612

**END OF DESCRIPTION**

**PARCEL C**  
**Legal Description**

*A portion of Lots 3 through 10 of Fischer's Subdivision as recorded on the Official Plat in Book 10 Page 499 in the Office of the Ada County Recorder and a portion of the Southeast ¼ of the Southwest ¼ of Section 4, Township 3 North, Range 2 East, Boise Meridian, City of Boise, Ada County, Idaho. Shown as Parcel C on Record of Survey No. 10423, Instrument No. 2016-020780 in the Office of the Ada County Recorder in Boise ID.*

*More particularly described as follows:*

***Commencing at the found Brass Cap at the Section Corner common to Sections 4, 5, 8 and 9 of said Township 3 North, Range 2 East:***

- A. Thence North 00° 03' 05" West, a distance of 2672.26 feet to the found Aluminum Cap monument marking the ¼ Corner common to said Sections 4 and 5;
- B. thence South 65° 41' 51" East, a distance of 2343.65 feet to the found ½" rebar with an illegible cap marking the intersection of W. Bannock Street and N. 27th Street;
- C. thence along the centerline of said N. 27th Street, South 00°17'06" West 330.02 feet to a P.K. nail marking the intersection of W. Idaho Street and said N. 27th Street;
- D. thence continuing along the projection of said centerline South 00°17'06" West 390.01 feet to a point on the Southerly right-of-way of W. Main Street from which a found ½" iron pin with plastic cap stamped "PLS 7881" marking the Northwest Corner of Lot 6 Block 21 of the West Side Addition as recorded on the Official Plat in Book 2 Page 86 and also marking the Northeast Corner of Parcel B of Warranty Deed Instrument No. 101124821, recorded on November 28, 2001 in the Office of the Ada County Recorder, bears South 89° 41' 09" East, a distance of 49.20 feet;
- E. thence along said Southerly right-of-way, North 89° 41' 09" West, a distance of 304.60 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" marking the beginning of a non-tangent curve to the left, said curve having a Radius of 130.30 feet, a Delta of 032°40'18", a tangent length of 38.19 feet, a Long Chord Bearing of South 15°39'38" East and a Long Chord length of 73.30 feet;
- F. thence along said non-tangent curve to the left an Arc Length of 74.30 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- G. thence South 31° 59' 47" East, a distance of 147.88 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612", the **POINT OF BEGINNING of PARCEL C;**



- H. thence South 83° 00' 14" West, a distance of 260.13 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" on the easterly right-of-way of South Whitewater Boulevard as described in Warranty Deed Instrument No. 113107760;
- I. thence along said east right-of-way, North 34° 21' 15" West, a distance of 128.58 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- J. thence leaving said right-of-way, North 85° 50' 31" East, a distance of 272.59 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- K. thence South 31° 59' 47" East, a distance of 111.12 feet to the **POINT OF BEGINNING**.

Containing 28245 square feet (0.648 acres) more or less.

Subject to Easements and Rights-of-Way of record or not of record.  
Any modification of this description shall render it void.

Fox Land Surveys, Inc.  
Timothy J. Fox, Project Manager, PLS 7612

**END OF DESCRIPTION**

**PARCEL D**  
**Legal Description**

*A portion of the Southeast ¼ of the Southwest ¼ of Section 4, Township 3 North, Range 2 East, Boise Meridian, City of Boise, Ada County, Idaho. Shown as Parcel D on Record of Survey No. 10423, Instrument No. 2016-020780 in the Office of the Ada County Recorder in Boise ID.*

*More particularly described as follows:*

**Commencing** at the found Brass Cap at the Section Corner common to Sections 4, 5, 8 and 9 of said Township 3 North, Range 2 East:

- A. Thence North 00° 03' 05" West, a distance of 2672.26 feet to the found Aluminum Cap monument marking the ¼ Corner common to said Sections 4 and 5;
- B. thence South 65° 41' 51" East, a distance of 2343.65 feet to the found ½" rebar with an illegible cap marking the intersection of W. Bannock Street and N. 27th Street;
- C. thence along the centerline of said N. 27th Street, South 00°17'06" West 330.02 feet to a P.K. nail marking the intersection of W. Idaho Street and said N. 27th Street;
- D. thence continuing along the projection of said centerline South 00°17'06" West 390.01 feet to a point on the Southerly right-of-way of W. Main Street from which a found ½" iron pin with plastic cap stamped "PLS 7881" marking the Northwest Corner of Lot 6 Block 21 of the West Side Addition as recorded on the Official Plat in Book 2 Page 86 and also marking the Northeast Corner of Parcel B of Warranty Deed Instrument No. 101124821, recorded on November 28, 2001 in the Office of the Ada County Recorder, bears South 89° 41' 09" East, a distance of 49.20 feet;
- E. thence along said Southerly right-of-way, North 89° 41' 09" West, a distance of 304.60 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" marking the beginning of a non-tangent curve to the left, said curve having a Radius of 130.30 feet, a Delta of 032°40'18", a Tangent length of 38.19 feet, a Long Chord Bearing of South 15°39'38" East and a Long Chord Length of 73.30 feet;
- F. thence along said non-tangent curve to the left an Arc Length of 74.30 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- G. thence South 31° 59' 47" East, a distance of 147.88 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612", the **POINT OF BEGINNING of PARCEL D**;
- H. thence South 31° 59' 47" East, a distance of 111.12 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";

- I. thence South 80° 05' 43" West, a distance of 248.77 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" on the easterly right-of-way of South Whitewater Boulevard as described in Warranty Deed Instrument No. 113107760;
- J. thence along said east right-of-way, North 34° 21' 15" West, a distance of 127.60 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- K. thence North 83° 00' 14" East, a distance of 260.13 feet to the **POINT OF BEGINNING**.

Containing 27546 square feet (0.632 acres) more or less.

Subject to Easements and Rights-of-Way of record or not of record.  
Any modification of this description shall render it void.

Fox Land Surveys, Inc.  
Timothy J. Fox, Project Manager, PLS 7612

**END OF DESCRIPTION**

**PARCEL E**  
**Legal Description**

*A portion of the Southeast ¼ of the Southwest ¼ of Section 4, Township 3 North, Range 2 East, Boise Meridian, City of Boise, Ada County, Idaho. Shown as Parcel E on Record of Survey No. 10423, Instrument No. 2016-020780 in the Office of the Ada County Recorder in Boise ID.*

*More particularly described as follows:*

**Commencing at the found Brass Cap at the Section Corner common to Sections 4, 5, 8 and 9 of said Township 3 North, Range 2 East:**

- A. Thence North 00° 03' 05" West, a distance of 2672.26 feet to the found Aluminum Cap monument marking the ¼ Corner common to said Sections 4 and 5;
- B. thence South 65° 41' 51" East, a distance of 2343.65 feet to the found ½" rebar with an illegible cap marking the intersection of W. Bannock Street and N. 27th Street;
- C. thence along the centerline of said N. 27th Street, South 00°17'06" West 330.02 feet to a P.K. nail marking the intersection of W. Idaho Street and said N. 27th Street;
- D. thence continuing along the projection of said centerline South 00°17'06" West 390.01 feet to a point on the Southerly right-of-way of W. Main Street from which a found ½" iron pin with plastic cap stamped "PLS 7881" marking the Northwest Corner of Lot 6 Block 21 of the West Side Addition as recorded on the Official Plat in Book 2 Page 86 and also marking the Northeast Corner of Parcel B of Warranty Deed Instrument No. 101124821, recorded on November 28, 2001 in the Office of the Ada County Recorder, bears South 89° 41' 09" East, a distance of 49.20 feet;
- E. thence along said Southerly right-of-way, North 89° 41' 09" West, a distance of 304.60 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" marking the beginning of a non-tangent curve to the left, said curve having a Radius of 130.30 feet, a Delta of 032°40'18", a tangent length of 38.19 feet, a Long Chord Bearing of South 15°39'38" East and a Long Chord length of 73.30 feet;
- F. thence along said non-tangent curve to the left an Arc Length of 74.30 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- G. South 31° 59' 47" East, a distance of 259.00 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612", the **POINT OF BEGINNING of PARCEL E**;
- H. thence South 31° 59' 47" East, a distance of 60.97 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" at the beginning of a curve to the right, said curve having a Radius of 769.70 feet, a Delta of 003°43'59", a Tangent length of

25.08 feet, a Long Chord Bearing of South 30°07'48" East and a Long Chord length of 50.14 feet;

- I. thence along said curve to the right an Arc Length of 50.15 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- J. thence South 77° 16' 33" West, a distance of 238.99 feet to a set ½" rebar with plastic cap stamped "PLS 7612" at the intersection with the easterly right-of-way of South Whitewater Park Boulevard as described in Warranty Deed Instrument No. 113107760 and the beginning of a non-tangent curve to the left, said curve having a Radius of 391.50 feet, a Delta of 005°40'01", a tangent length of 19.38 feet, a Long Chord Bearing of North 31°32'09" West and a Long Chord Length of 38.71 feet;
- K. thence along said curve to the left an Arc Length of 38.72 feet to a found 5/8" rebar with plastic cap stamped "PLS 5082";
- L. thence North 34°21'15" West, a distance of 87.13 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- M. thence leaving said right-of-way, North 80°05'43" East, a distance of 248.77 feet to the **POINT OF BEGINNING**.

Containing 26903 square feet (0.617 acres) more or less.

Subject to Easements and Rights-of-Way of record or not of record.  
Any modification of this description shall render it void.

Fox Land Surveys, Inc.  
Timothy J. Fox, Project Manager, PLS 7612

**END OF DESCRIPTION**

**PARCEL F**  
**Legal Description**

*A portion of the Southeast ¼ of the Southwest ¼ of Section 4, Township 3 North, Range 2 East, Boise Meridian, City of Boise, Ada County, Idaho. Shown as Parcel F on Record of Survey No. 10423, Instrument No. 2016-020780 in the Office of the Ada County Recorder in Boise ID.*

*More particularly described as follows:*

***Commencing at the found Brass Cap at the Section Corner common to Sections 4, 5, 8 and 9 of said Township 3 North, Range 2 East:***

- A. Thence North 00° 03' 05" West, a distance of 2672.26 feet to the found Aluminum Cap monument marking the ¼ Corner common to said Sections 4 and 5;
- B. thence South 65° 41' 51" East, a distance of 2343.65 feet to the found ½" rebar with an illegible cap marking the intersection of W. Bannock Street and N. 27th Street;
- C. thence along the centerline of said N. 27th Street, South 00°17'06" West 330.02 feet to a P.K. nail marking the intersection of W. Idaho Street and said N. 27th Street;
- D. thence continuing along the projection of said centerline South 00°17'06" West 390.01 feet to a point on the Southerly right-of-way of W. Main Street from which a found ½" iron pin with plastic cap stamped "PLS 7881" marking the Northwest Corner of Lot 6 Block 21 of the West Side Addition as recorded on the Official Plat in Book 2 Page 86 and also marking the Northeast Corner of Parcel B of Warranty Deed Instrument No. 101124821, recorded on November 28, 2001 in the Office of the Ada County Recorder, bears South 89° 41' 09" East, a distance of 49.20 feet;
- E. thence along said Southerly right-of-way, North 89° 41' 09" West, a distance of 304.60 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" marking the beginning of a non-tangent curve to the left, said curve having a Radius of 130.30 feet, a Delta of 032°40'18", a tangent length of 38.19 feet, a Long Chord Bearing of South 15°39'38" East and a Long Chord length of 73.30 feet;
- F. thence along said non-tangent curve to the left an Arc Length of 74.30 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- G. thence South 31° 59' 47" East, a distance of 319.96 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" at the beginning of a curve to the right, said curve having a Radius of 769.70 feet, a Delta of 003°43'59", a tangent length of 25.08 feet, a Long Chord Bearing of South 30°07'48" East and a Long Chord Length of 50.14 feet;

- H. thence along said curve to the right an Arc Length of 50.15 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612", the **POINT OF BEGINNING of PARCEL F** at a point of compound curvature, said curve having a Radius of 769.70 feet, a Delta of 008°16'16", a tangent length of 55.65 feet, a Long Chord Bearing of South 24°07'40" East and a Long Chord Length of 111.02 feet;
- I. thence along said curve to the right an Arc Length of 111.11 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" on the northerly right-of-way of West Fairview Avenue;
- J. thence along said northerly right-of-way, South 75° 00' 48" West, a distance of 245.30 feet to a found 5/8" rebar with plastic cap stamped "PLS 5082" at the intersection with the easterly right-of-way of South Whitewater Park Boulevard as described in Warranty Deed Instrument No. 113107760;
- K. thence along said east right-of-way, North 14° 56' 08" West, a distance of 26.31 feet to a found 5/8" rebar with plastic cap stamped "PLS 5082" marking the beginning of a non-tangent curve to the left, said curve having a Radius of 391.50 feet, a Delta of 013°42'05", a tangent length of 47.03 feet, a Long Chord Bearing of North 21°51'06" West and a Long Chord Length of 93.40 feet;
- L. thence along said east right-of-way and said curve to the left an Arc Length of 93.62 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- M. thence leaving said right-of-way, North 77°16'33" East, a distance of 238.99 feet to the **POINT OF BEGINNING**.

Containing 27431 square feet (0.629 acres) more or less.

Subject to Easements and Rights-of-Way of record or not of record.  
Any modification of this description shall render it void.

Fox Land Surveys, Inc.  
Timothy J. Fox, Project Manager, PLS 7612

#### **END OF DESCRIPTION**

**PARCEL H**  
**Legal Description**

*A portion of Lots 1 through 3 of Fischer's Subdivision as recorded on the Official Plat in Book 10 Page 499 in the Office of the Ada County Recorder and a portion of the Southeast ¼ of the Southwest ¼ of Section 4, Township 3 North, Range 2 East, City of Boise, Ada County, Idaho. Shown as Parcel H on Record of Survey No. 10423, Instrument No. 2016-020780 in the Office of the Ada County Recorder in Boise ID.*

*More particularly described as follows:*

**Commencing** at the found Brass Cap at the Section Corner common to Sections 4, 5, 8 and 9 of said Township 3 North, Range 2 East:

- A. Thence North 00° 03' 05" West, a distance of 2672.26 feet to the found Aluminum Cap monument marking the ¼ Corner common to said Sections 4 and 5;
- B. thence South 65° 41' 51" East, a distance of 2343.65 feet to the found ½" rebar with an illegible cap marking the intersection of W. Bannock Street and N. 27th Street;
- C. thence along the centerline of said N. 27th Street, South 00°17'06" West 330.02 feet to a P.K. nail marking the intersection of W. Idaho Street and said N. 27th Street;
- D. thence continuing along the projection of said centerline South 00°17'06" West 390.01 feet to a point on the Southerly right-of-way of W. Main Street from which a found ½" iron pin with plastic cap stamped "PLS 7881" marking the Northwest Corner of Lot 6 Block 21 of the West Side Addition as recorded on the Official Plat in Book 2 Page 86 and also marking the Northeast Corner of Parcel B of Warranty Deed Instrument No. 101124821, recorded on November 28, 2001 in the Office of the Ada County Recorder, bears South 89° 41' 09" East, a distance of 49.20 feet;
- E. thence along said Southerly right-of-way, North 89° 41' 09" West, a distance of 97.55 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" marking the **POINT OF BEGINNING of PARCEL H**;
- F. thence leaving said right-of-way, South 25°15'14" East, a distance of 244.44 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- G. thence South 84°43'47" West, a distance of 119.36 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- H. thence North 31°59'47" West, a distance of 229.41 feet to a set 1/2" rebar with plastic cap stamped "FLSI PLS 7612" marking the beginning of a curve to the right, said curve having a Radius of 70.00 feet, a Delta of 032°58'58", a Tangent length



of 20.72 feet, a Long Chord Bearing of North 15°30'18" West and a Long Chord length of 39.74 feet;

- I. thence along said curve to the left an Arc Length of 40.30 feet to a point of non-tangency at the intersection with the southerly right-of-way of West Main Street, marked by a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- J. thence continuing along said southerly right-of-way, South 89°41'09" East, a distance of 146.75 feet to the **POINT OF BEGINNING**.

Containing 32112 square feet (0.737 acres) more or less.

Subject to Easements and Rights-of-Way of record or not of record.  
Any modification of this description shall render it void.

Fox Land Surveys, Inc.  
Timothy J. Fox, Project Manager, PLS 7612

**END OF DESCRIPTION**

**PARCEL I**  
**Legal Description**

*A portion of Lot 1 of Fischer's Subdivision as recorded on the Official Plat in Book 10 Page 499 in the Office of the Ada County Recorder and a portion of the Southeast ¼ of the Southwest ¼ of Section 4, Township 3 North, Range 2 East, City of Boise, Ada County, Idaho. Shown as Parcel I on Record of Survey No. 10423, Instrument No. 2016-020780 in the Office of the Ada County Recorder in Boise ID.*

*More particularly described as follows:*

**Commencing** at the found Brass Cap at the Section Corner common to Sections 4, 5, 8 and 9 of said Township 3 North, Range 2 East:

- A. Thence North 00° 03' 05" West, a distance of 2672.26 feet to the found Aluminum Cap monument marking the ¼ Corner common to said Sections 4 and 5;
- B. thence South 65° 41' 51" East, a distance of 2343.65 feet to the found ½" rebar with an illegible cap marking the intersection of W. Bannock Street and N. 27th Street;
- C. thence along the centerline of said N. 27th Street, South 00°17'06" West 330.02 feet to a P.K. nail marking the intersection of W. Idaho Street and said N. 27th Street;
- D. thence continuing along the projection of said centerline South 00°17'06" West 390.01 feet to a point on the Southerly right-of-way of W. Main Street from which a found ½" iron pin with plastic cap stamped "PLS 7881" marking the Northwest Corner of Lot 6 Block 21 of the West Side Addition as recorded on the Official Plat in Book 2 Page 86 and also marking the Northeast Corner of Parcel B of Warranty Deed Instrument No. 101124821, recorded on November 28, 2001 in the Office of the Ada County Recorder, bears South 89° 41' 09" East, a distance of 49.20 feet;
- E. thence along said Southerly right-of-way, South 89° 41' 09" East, a distance of 49.20 feet to a found ½" rebar with plastic cap stamped "PLS 7881" at said Northwest Corner of Lot 6 Block 21 and said Northeast Corner of Parcel B, the **POINT OF BEGINNING of PARCEL I**;
- F. thence along the West line of said West Side Addition, South 20°03'01" East, a distance of 222.82 feet to a point from which a set ½" rebar Witness Corner with plastic cap stamped "FLSI PLS 7612" bears South 84°43'47" West, a distance of 1.00 foot;
- G. thence South 84°43'47" West, a distance of 119.36 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";

- H. thence North 25°15'14" West, a distance of 244.44 feet to a set 1/2" rebar with plastic cap stamped "FLSI PLS 7612" at the intersection with the southerly right-of-way of West Main Street;
- I. thence continuing along said southerly right-of-way, South 89°41'09" East, a distance of 146.75 feet to the **POINT OF BEGINNING**.

Containing 29,037 square feet (0.666 acres) more or less.

Subject to Easements and Rights-of-Way of record or not of record.  
Any modification of this description shall render it void.

Fox Land Surveys, Inc.  
Timothy J. Fox, Project Manager, PLS 7612

**END OF DESCRIPTION**

**PARCEL J**  
**Legal Description**

*A portion of the Southeast ¼ of the Southwest ¼ of Section 4, Township 3 North, Range 2 East, City of Boise, Ada County, Idaho. Shown as Parcel J on Record of Survey No. 10423, Instrument No. 2016-020780 in the Office of the Ada County Recorder in Boise ID.*

*More particularly described as follows:*

***Commencing at the found Brass Cap at the Section Corner common to Sections 4, 5, 8 and 9 of said Township 3 North, Range 2 East:***

- A. Thence North 00° 03' 05" West, a distance of 2672.26 feet to the found Aluminum Cap monument marking the ¼ Corner common to said Sections 4 and 5;
- B. thence South 65° 41' 51" East, a distance of 2343.65 feet to the found ½" rebar with an illegible cap marking the intersection of W. Bannock Street and N. 27th Street;
- C. thence along the centerline of said N. 27th Street, South 00°17'06" West 330.02 feet to a P.K. nail marking the intersection of W. Idaho Street and said N. 27th Street;
- D. thence continuing along the projection of said centerline South 00°17'06" West 390.01 feet to a point on the Southerly right-of-way of W. Main Street from which a found ½" iron pin with plastic cap stamped "PLS 7881" marking the Northwest Corner of Lot 6 Block 21 of the West Side Addition as recorded on the Official Plat in Book 2 Page 86 and also marking the Northeast Corner of Parcel B of Warranty Deed Instrument No. 101124821, recorded on November 28, 2001 in the Office of the Ada County Recorder, bears South 89° 41' 09" East, a distance of 49.20 feet;
- E. thence along said Southerly right-of-way, South 89° 41' 09" East, a distance of 49.20 feet to a found ½" rebar with plastic cap stamped "PLS 7881" at said Northwest Corner of Lot 6 Block 21 and said Northeast Corner of Parcel B;
- F. thence along the West line of said West Side Addition, South 20°03'01" East, a distance of 222.82 feet to a point from which a set ½" rebar with plastic cap stamped "FLSI PLS 7612" bears South 84°43'47" West, a distance of 1.00 foot;
- G. thence South 84°43'47" West, a distance of 119.36 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" the **POINT OF BEGINNING of PARCEL J**;
- H. thence North 84°43'47" East, a distance of 119.36 feet to a point on said West line of West Side Subdivision from which a set ½" rebar Witness Corner with plastic cap stamped "FLSI PLS 7612" bears South 84°43'47" West, a distance of 1.00 foot;

- I. thence continuing along said West line, South 20°03'01" East, a distance of 222.82 feet to a set 1" Copper Cap in concrete stamped "FLSI PLS 7612" at the intersection with the northerly right-of-way of West Fairview Avenue;
- J. thence continuing along said northerly right-of-way, South 75°00'48" West, a distance of 97.44 feet to a point from which a set ½" rebar with plastic cap stamped "FLSI PLS 7612" bears North 24°20'21" West, a distance of 1.00 foot;
- K. thence North 24°20'21" West, a distance of 245.35 feet to the **POINT OF BEGINNING**.

Containing 24,652 square feet (0.565 acres) more or less.

Subject to Easements and Rights-of-Way of record or not of record.  
Any modification of this description shall render it void.

Fox Land Surveys, Inc.  
Timothy J. Fox, Project Manager, PLS 7612

**END OF DESCRIPTION**

**PARCEL K**  
**Legal Description**

*A portion of the Southeast ¼ of the Southwest ¼ of Section 4, Township 3 North, Range 2 East, City of Boise, Ada County, Idaho. Shown as Parcel K on Record of Survey No. 10423, Instrument No. 2016-020780 in the Office of the Ada County Recorder in Boise ID.*

*More particularly described as follows:*

***Commencing at the found Brass Cap at the Section Corner common to Sections 4, 5, 8 and 9 of said Township 3 North, Range 2 East:***

- A. Thence North 00° 03' 05" West, a distance of 2672.26 feet to the found Aluminum Cap monument marking the ¼ Corner common to said Sections 4 and 5;
- B. thence South 65° 41' 51" East, a distance of 2343.65 feet to the found ½" rebar with an illegible cap marking the intersection of W. Bannock Street and N. 27th Street;
- C. thence along the centerline of said N. 27th Street, South 00°17'06" West 330.02 feet to a P.K. nail marking the intersection of W. Idaho Street and said N. 27th Street;
- D. thence continuing along the projection of said centerline South 00°17'06" West 390.01 feet to a point on the Southerly right-of-way of W. Main Street from which a found ½" iron pin with plastic cap stamped "PLS 7881" marking the Northwest Corner of Lot 6 Block 21 of the West Side Addition as recorded on the Official Plat in Book 2 Page 86 and also marking the Northeast Corner of Parcel B of Warranty Deed Instrument No. 101124821, recorded on November 28, 2001 in the Office of the Ada County Recorder, bears South 89° 41' 09" East, a distance of 49.20 feet;
- E. thence along said Southerly right-of-way, South 89° 41' 09" East, a distance of 49.20 feet to a found ½" rebar with plastic cap stamped "PLS 7881" at the said Northwest Corner of Lot 6 Block 21 and the said Northeast Corner of Parcel B;
- F. thence along the West line of said West Side Addition, South 20°03'01" East, a distance of 222.82 feet to a point from which a set ½" rebar Witness Corner with plastic cap stamped "FLSI PLS 7612" bears South 84°43'47" West, a distance of 1.00 foot;
- G. thence South 84°43'47" West, a distance of 119.36 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" the **POINT OF BEGINNING of PARCEL K**;
- H. thence South 24°20'21" East, a distance of 245.35 feet to the intersection with the northerly right-of-way of West Fairview Avenue marked by a set ½" rebar Witness Corner with plastic cap stamped "FLSI PLS 7612" bears North 24°20'21" West, a distance of 1.00 foot;

- I. thence continuing along said northerly right-of-way, South 75°00'48" West, a distance of 97.44 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" marking the beginning of a non-tangent curve to the left, said curve having a Radius of 830.00 feet, a Delta of 012°22'07", a Tangent length of 89.94 feet, a Long Chord Bearing of North 25°48'43" West and a Long Chord length of 178.83 feet;
- J. thence leaving said right-of-way and continuing along said curve to the left an Arc Length of 179.17 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- K. thence North 31°59'47" West, a distance of 90.56 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- L. thence North 84°43'47" West, a distance of 119.36 feet to the **POINT OF BEGINNING**.

Containing 25,167 square feet (0.0577 acres) more or less.

Subject to Easements and Rights-of-Way of record or not of record.  
Any modification of this description shall render it void.

Fox Land Surveys, Inc.  
Timothy J. Fox, Project Manager, PLS 7612

#### **END OF DESCRIPTION**

## EXHIBIT B

### LEGAL DESCRIPTION OF THE STREET EXTENSION PARCEL

#### PARCEL G Legal Description

*A portion of Lots 2 through 4 of Fischer's Subdivision as recorded on the Official Plat in Book 10 Page 499 in the Office of the Ada County Recorder and a portion of the Southeast ¼ of the Southwest ¼ of Section 4, Township 3 North, Range 2 East,, City of Boise, Ada County, Idaho. Shown as Parcel G on Record of Survey No. 10423, Instrument No. 2016-020780 in the Office of the Ada County Recorder in Boise ID.*

*More particularly described as follows:*

**Commencing** at the found Brass Cap at the Section Corner common to Sections 4, 5, 8 and 9 of said Township 3 North, Range 2 East:

- A. Thence North 00° 03' 05" West, a distance of 2672.26 feet to the found Aluminum Cap monument marking the ¼ Corner common to said Sections 4 and 5;
- B. thence South 65° 41' 51" East, a distance of 2343.65 feet to the found ½" rebar with an illegible cap marking the intersection of W. Bannock Street and N. 27th Street;
- C. thence along the centerline of said N. 27th Street, South 00°17'06" West 330.02 feet to a P.K. nail marking the intersection of W. Idaho Street and said N. 27th Street;
- D. thence continuing along the projection of said centerline South 00°17'06" West 390.01 feet to a point on the Southerly right-of-way of W. Main Street from which a found ½" iron pin with plastic cap stamped "PLS 7881" marking the Northwest Corner of Lot 6 Block 21 of the West Side Addition as recorded on the Official Plat in Book 2 Page 86 and also marking the Northeast Corner of Parcel B of Warranty Deed Instrument No. 101124821, recorded on November 28, 2001 in the Office of the Ada County Recorder, bears South 89° 41' 09" East, a distance of 49.20 feet;
- E. thence along said Southerly right-of-way, North 89° 41' 09" West, a distance of 304.60 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" marking the **POINT OF BEGINNING of PARCEL G**;
- F. thence along said southerly right-of-way South 89°41'09" East, a distance of 60.30 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" marking the beginning of a non-tangent curve to the left, said curve having a Radius of 70.00 feet, a Delta of 032°58'58", a Tangent length of 20.72 feet, a Long Chord Bearing of South 15°30'18" East and a Long Chord length of 39.74 feet;



- G. thence leaving said right-of-way and continuing along said non-tangent curve to the left an Arc Length of 40.30 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- H. thence South 31° 59' 47" East, a distance of 319.96 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" marking the beginning of a curve to the right, said curve having a Radius of 830.00 feet, a Delta of 012°22'07", a Tangent length of 89.94 feet, a Long Chord Bearing of South 25°48'43" East and a Long Chord length of 178.83 feet;
- I. thence along said curve to the right an Arc Length of 179.17 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" at the intersection with the north right-of-way of West Fairview Avenue;
- J. thence along said north right-of-way, South 75° 00' 48" West, a distance of 60.51 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" marking the beginning of a non-tangent curve to the left, said curve having a Radius of 769.70 feet, a Delta of 012°00'15", a Tangent length of 80.93 feet, a Long Chord Bearing of North 25°59'40" West and a Long Chord length of 160.97 feet;
- K. thence leaving said right-of-way and continuing along said curve to the left an Arc Length of 161.26 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612";
- L. thence North 31° 59' 47" West, a distance of 319.96 feet to a set ½" rebar with plastic cap stamped "FLSI PLS 7612" marking the beginning of a curve to the right, said curve having a Radius of 130.30 feet, a Delta of 032°40'18", a Tangent length of 38.19 feet, a Long Chord Bearing of North 15°39'38" West and a Long Chord length of 73.30 feet;
- M. thence along said curve to the right an Arc Length of 74.30 feet to the **POINT OF BEGINNING**.

Containing 33013 square feet (0.757 acres) more or less.

Subject to Easements and Rights-of-Way of record or not of record.  
Any modification of this description shall render it void.

Fox Land Surveys, Inc.  
Timothy J. Fox, Project Manager, PLS 7612

**END OF DESCRIPTION**

## EXHIBIT C

### LOW INCOME COVENANTS FORM

Recording requested by:

City of Boise City  
150 N. Capitol Boulevard  
PO Box 500  
Boise, Idaho 83701-0500  
Attn: City Attorney's Office

---

#### DECLARATION OF LOW INCOME HOUSING COVENANTS

This Declaration of Low Income Housing Covenants (this "**Declaration**") is made effective as of [\_\_\_\_\_, 20\_\_], by **The Whitewater Project, LLC**, a Delaware limited liability company ("**Owner**") for the benefit of City of Boise City, an Idaho municipal corporation ("**City**").

Owner owns that certain parcel of real property legally described on Exhibit A, attached hereto (the "**Owner**"). Owner declares that the Property will be held, sold and conveyed subject to the obligations and covenants in this Declaration.

1. **Low Income Units.** The Property will have at least ten (10) residential dwelling units (the "Low Income Units") that are affordable to persons of "low income" for a period of forty (40) years from the date of building permit issuance for each respective Low Income Unit. At least one Low Income Unit must be accessible to individuals with mobility impairment or sensory impairment. As used herein, "low income" means 80% of "Area Median Income" for the Boise City – Nampa, ID HUD Metro FMR Area as defined by the U.S. Department of Housing and Urban Development (currently available at <https://www.huduser.gov/portal/datasets/il.html>) ("80% AMI"). The base rent (excluding utilities, if any) in each Low Income Unit cannot exceed 30% of the applicable 80% AMI, pursuant to the following:

Size	Standard for Calculating Maximum Rent	Example of Maximum Rent using 80% AMI currently in effect
4-bedroom	30% x 80% AMI for 4 persons	30% x \$48,250 = \$1,206
3-bedroom	30% x 80% AMI for 3 persons	30% x \$43,450 = \$1,086
2-bedroom	30% x 80% AMI for 2 persons	30% x \$38,600 = \$965
1-bedroom	30% x 80% AMI for 1 person	30% x \$33,800 = \$845
Efficiency	30% x 80% AMI for 1 person, less the average difference in rents calculated above	30% x \$33,800 - \$120 = 725

Nothing herein shall limit the occupancy of any unit by any number of persons in accordance with applicable law.

2. **Buildings with Low Income Units.** Owner covenants that each building on the Property containing any Low Income Units will: (a) have residential units that are not Low Income

Units; (b) distribute the Low Income Units throughout the building; and (c) have the Low Income Units therein be a mix of units (i.e. single room occupancy, one bedroom, two bedroom units) that is generally similar to the mix of units in the rest of the building.

3. **Compliance with Applicable Laws.** Owner covenants that will comply, and that each operator of any Low Income Units will comply, with applicable laws with respect to the Low Income Units, including laws related to fair housing.

4. **Annual Reports.** Owner will provide City with a written report by the March 1 of each year that provides reasonable evidence that the Low Income Units owned by such owner have been leased and/or operated in compliance with this Declaration during the prior calendar year.

5. **Indemnity.** If City is held liable for any personal injury, property damage or violation of civil rights (including laws related to fair housing) with respect to the condition or operation of any Low Income Unit solely by reason of City having its rights under this Agreement, Owner will hold City harmless for all third-party damages or expenses reasonably incurred thereby; provided, however, nothing herein will obligate Owner to hold City harmless for any damages related to personal injury or property damage caused by the negligence or fault of City, or for any violation of civil rights caused by City.

6. **Term.** The term of this Declaration will automatically expire forty (40) years from the date of building permit issuance for the last respective Low Income Unit. If Owner provides the City with reasonable evidence that Owner has fulfilled its obligations under this Declaration, City will provide Owner with a termination of this Declaration in recordable form.

7. **Binding Effect.** This Declaration will be binding upon every person or entity having any fee, leasehold or other interest in the Property. This Declaration will be indivisible from the lands appurtenant and will in no event be transferred or assigned separately from the benefited and burdened lands, or any part thereof. The term "Owner" means only the then current fee simple owner of the Property. Each Owner is obligated to perform its obligations only during the time such Owner owns fee simple title to the Property. Any Owner who transfers its title to the Property is relieved of all liabilities for the obligations of Owner under this Declaration to be performed on or after the date of transfer.

8. **Default; Remedies.** If Owner breaches the terms of this Declaration and fails to cure such breach within thirty (30) days after receipt of written notice from City stating specifically the violations of the Declaration (the "Default Notice"); provided, however, that if the nature of the default is such that it cannot reasonably be cured within such thirty (30) day period, Owner will not be deemed to be in default if within such thirty (30) day period Owner commences the cure and thereafter diligently prosecutes the same to completion. In the event of Owner's default, City may, in-lieu-of any other remedies, bring an action against Owner for (i) specific performance of this Declaration and (ii) the extension of the term of this Declaration for a period equal to the period that Owner was not in compliance of this Declaration after the Default Notice. If event City prevails on any such claim, City and Owner will execute and record a written instrument against the Property setting forth the extension of the term of this Declaration.

9. **Modification; Termination.** This Declaration may not be modified in any respect whatsoever or terminated, in whole or in part, except with the consent of City and the Owner, and then only by written instrument duly executed, acknowledged and recorded in the real property records of Ada County, Idaho.

10. **Attorneys' Fees.** If any action is filed or instituted to interpret or enforce the terms of this Declaration, the prevailing party will be entitled to receive from the other party its reasonable attorneys' fees and costs.

11. **General.** This Declaration will be governed and construed in accordance with the laws of the State of Idaho. The failure of City to insist upon strict performance of any of the terms, covenants or conditions contained herein will not be deemed a waiver of any rights or remedies that City may have, and will not be deemed a waiver of any subsequent breach or default in any of the terms, covenants or conditions contained herein by the same or any other person. Whenever the context so requires, the use of a gender will include all other genders, the use of the singular will include the plural, and the use of the plural will include the singular. In the event any owner is composed of more than one person, the obligations of said owner will be joint and several.

[ end of text; signature page follows ]

DATED effective as of the year and day first set forth above.

"Owner"

**The Whitewater Project, LLC**, a Delaware  
limited liability company

By: \_\_\_\_\_

Michael J. Brown  
Authorized Signatory

Date: \_\_\_\_\_

STATE OF IDAHO       )  
                                  ) ss.  
County of Ada        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared **Michael J. Brown**, known or identified to me to be the **Manager of The Whitewater Project, LLC**, a Delaware limited liability company, the person who executed the instrument on behalf of the company, and acknowledged to me that the company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for Idaho

Residing at \_\_\_\_\_

My commission expires: \_\_\_\_\_

[EXHIBIT A - LEGAL DESCRIPTION OF THE PROPERTY  
To be incorporated prior to execution and recordation. ]

## EXHIBIT D

### OPTION TO PURCHASE TERMS

**B.1 Option to Purchase.** If City has an option to purchase a Lot pursuant to Section 4(e) of the Agreement, City may exercise the option by notifying Developer of City's intent to exercise the Option in accordance with the notice provisions of the Agreement (the "**Exercise Notice**"), which notice will be copied to Escrow Agent (defined in Section B.4.b below). City will deposit Fifty Thousand and No/100ths Dollars (\$50,000.00) (the "**Earnest Money**") with Escrow Agent within three (3) business days of its delivery of the Exercise Notice. Developer agrees to deliver to City any agreements, leases, licenses and other instruments that are real property commitments affecting the Lot which are not recorded in the real property records of Ada County, Idaho, within ten (10) business days of the delivery of the Exercise Notice to Developer.

**B.2 Due Diligence.**

a. City will have the later of (i) sixty (60) days from delivery of the Exercise Notice or (ii) ten (10) days after its receipt of the appraisal described in Section B.3, but in no event later than ninety (90) days after delivery of the Exercise Notice (the "**Due Diligence Period**") to secure an acceptable commitment for title insurance from Escrow Agent and to enter upon the Lot to perform such investigations, surveys and other examinations of Lot as City deems appropriate. On or before the expiration of the Due Diligence Period, City will notify Developer and Escrow Agent whether City elects to proceed with the purchase of Lot. If City delivers a notice of election to purchase to Developer and Escrow Agent prior to the expiration of the Due Diligence Period, the Earnest Money will become non-refundable to City (but applicable to the Purchase Price) and the parties will proceed to closing pursuant to Section B.4. If no approval notice is delivered prior to the expiration of the Due Diligence Period for any reason, City will be deemed to have elected to not proceed with the purchase, and City's option to purchase the Lot under the Agreement will automatically terminate, and the Earnest Money will be returned to City.

b. City's election to proceed with the purchase of the Lot will be deemed an acknowledgement that City has had an opportunity to review title to the Lot, to inspect the Lot and perform due diligence analysis of the Lot as City deems appropriate. Except for the warranties in this Section B.5 and in the deed identified in Section B.4.c, City is acquiring Lot in an "as is" condition solely in reliance on City's own review, inspections and analysis, and that neither Developer nor any agent, representative or employee of Developer has made, and City has not relied upon, any representation or warranty, express or implied, verbal or written, with respect to any aspect of the Lot.

**B.3 Purchase Price.** The "**Purchase Price**" for the Lot will be its fee simple market value as determined by an appraisal of the Lot on the same terms and conditions as the parties' joint appraisal of Property dated October 2, 2015. City and Developer agree that the appraiser will be as the parties may agree or, in the absence of agreement, the appraiser will be Drew Owen of Idaho Commercial Appraisal (if available, and if not available for any reason, either party may apply to Fourth District Court to have the court appoint any neutral commercial real estate appraiser). All instructions or other substantive communications with the appraiser will be jointly issued by City and Developer. The appraisal will for the benefit of, and concurrently sent to, each party. City will be responsible for the cost of the appraisal.

**B.4 Closing.**

a. **Closing Date.** The closing will take place on a mutually convenient date not more than thirty (30) days after the expiration of the Due Diligence Period or such other time as the parties may agree in writing (the "**Closing Date**").

b. **Escrow Closing.** The closing of purchase and sale of Lot will take place at the office of TitleOne Corporation, 1101 W. River Street, Suite 201, Boise, Idaho 83702 ("**Escrow Agent**").

On or before the Closing Date, City and Developer will deposit in escrow with Escrow Agent all instruments, documents and monies (payable in cash or other current funds), as necessary to complete the transaction in accordance with this Agreement. Escrow Agent's closing fees will be equally divided between Developer and City. Ad valorem and similar taxes with respect to the Lot, utility charges and other expenses and rents with respect to the Lot will be prorated as of the Closing Date. City will pay the premium and other expenses for any title insurance desired by City. All other expenses not specifically referenced in this Agreement and incurred by Developer or City with respect to this transaction will be borne and paid exclusively by the Party incurring the same, without reimbursement.

c. *Conveyance of Title.* At closing, Developer will execute and deliver to City a special warranty deed conveying Lot to City free from all liens, claims or encumbrances made, done or suffered by Developer, or any person claiming under Developer, except (i) the lien of real estate taxes and assessments for the then current calendar year not yet due and payable; (ii) rights reserved in regulations and ordinances of any governmental entity, including building and zoning restrictions; (iii) commercially reasonable restrictive covenants, rights-of-way, easements and other matters of record or appearing on the land; (iv) anything contemplated by this Agreement; and (v) anything made, done or suffered by City; provided, however, Developer will discharge any monetary encumbrances or mechanics lien made, done or suffered by Developer.

d. *Title Insurance.* City will not be obligated to close if City is not able to obtain at closing, at its own expense, a title insurance policy insuring marketable title to the Lot.

e. *Possession.* Possession of Lot will be delivered to City on the Closing Date.

f. *Other Documents.* Developer and City agree to execute such other commercially reasonable documents necessary for closing the transaction contemplated herein, including any necessary assignments.

**B.5 Environmental.** Developer warrants to City that Developer has not used at the Lot or placed under, on or about Lot, any Hazardous Materials in violation of Environmental Law. The term "Hazardous Materials" means (i) petroleum and underground storage tanks, (ii) any hazardous or toxic substance, material or waste that is regulated by any governmental authority including, without limitation, any material or substance that is designated, defined or regulated as a "hazardous substance", "hazardous material" or "hazardous waste" under any provision of Environmental Law, or (iii) any substance, material or waste determined by federal, state or local governmental authority to be capable of posing a risk of injury to health, safety or property. The term "Environmental Law" means all federal, state or local laws related to the storage, disposal, release and remediation of Hazardous Materials.

**B.6 Exclusivity of Option.** The option to purchase set forth herein is exclusive, non-assignable and exists solely for the benefit of City, except as provided in this paragraph. Should City attempt to assign, convey, delegate, or transfer any part of this option to purchase in violation of this paragraph without Developer's prior written consent, any such attempt will be null and void. Notwithstanding the above, City may, by notice to Developer, assign its option to purchase the Lot under the Agreement to CCDC without Developer's consent.



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## **FIRST AMENDMENT TO DEVELOPMENT AGREEMENT**

### **West End**

This First Amendment to Development Agreement (this “**Amendment**”) is made and entered into by and between the City of Boise City, an Idaho municipal corporation (“**City**”), and The Whitewater Project, LLC, a Delaware limited liability company (“**Developer**”), effective as of the date this Amendment is recorded in the real property records of Ada County, Idaho (the “**Amendment Date**”). Separately, City and Developer each may be referred to as “**party**,” or together as “**parties**.”

### **RECITALS**

A. The parties entered into that certain Development Agreement recorded in the official records of Ada County on April 1, 2016 as Instrument No. 2016-027191 (the “**Development Agreement**”). Capitalized terms defined in the Development Agreement, and not otherwise defined herein, have the applicable meaning set forth in the Development Agreement.

B. Developer timely submitted Conceptual Plans to City in accordance with Section 1 of the Development Agreement and requested amendments to the Development Agreement to extend the time for construction of the Street Extension and to allow staff-level approval of minor modifications to approved Conceptual Plans.

C. On July 11, 2017, during a Work Session meeting of the City’s Mayor and City Council, the City Council approved the Conceptual Plans and approved a forbearance on the construction of the Street Extension.

D. Section 2.b of the Development Agreement requires Developer to construct the Street Extension (as defined therein) within three (3) years after the Effective Date of the Development Agreement (i.e., by April 1, 2019), and Developer must soon start work on the Street Extension to complete the Street Extension prior to the foregoing deadline.

E. With the encouragement of City, Developer has entered into negotiations with Greenstone Enterprises, Inc., a Georgia corporation (“**Greenstone**”) for the sale of the Property to Greenstone for inclusion in Greenstone’s planned development of a sports stadium anchored mixed-use project in Boise’s West End (the “**Sports Stadium Project**”).

F. Greenstone’s preliminary plan for the Sports Stadium Project would be frustrated by Developer’s construction of the Street Extension, and Greenstone has requested that Developer delay construction of the Street Extension to allow Developer and Greenstone to negotiate a sale agreement for the Property and to allow further planning of the Sports Stadium Project.



G. Developer is willing to delay the construction of the Street Extension as requested by Greenstone if City agrees to (1) amend Section 2.b of the Development Agreement to require Developer to construct the Street Extension by June 1, 2020, and (b) amend Section 4.e of the Development Agreement to provide that City's repurchase option is not triggered until January 1, 2023.

H. City is willing to enter into the requested amendments to provide Developer and Greenstone with the opportunity to negotiate a sale agreement for the Property and to allow further planning of the Sports Stadium Project, based upon Developer's stated intent to provide Greenstone an option to purchase the Property extending until January 1, 2020.

#### AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Amendment to Section 1.e.** The parties agree Section 1.e of the Development Agreement shall be amended to read as follows:

e. *Amendments.* Developer may propose amendments to the Conceptual Plans from time to time, which amendments will be submitted to City's Council-Planning Division Director ("City Staff"). If City Staff determines a proposed amendment constitutes a major change, City Staff will promptly transmit the proposed amendment to City Council for review and approval. City Council will review the proposed amendment as soon as reasonably practical after submission, which is estimated to be within thirty (30) days of such submittal. After review, the City will either in writing: (a) approve the proposed amendment or (b) notify Developer of the specific element of the proposed amendment not approved, the basis of the disapproval and the actions Developer may take to get approval. The foregoing process will repeat until the proposed amendment is approved or withdrawn. If City Staff determines a proposed amendment constitutes only a minor change, City Staff, within thirty (30) days of receiving the proposed amendment, will (a) approve the proposed amendment or (b) notify the Developer of the specific element of the proposed amendment not approved, the basis of the disapproval, and the actions Developer may take to receive approval. The foregoing process will repeat until the proposed amendment is approved or withdrawn. City understands that market conditions and design preferences may change over time and agrees to cooperate with all reasonable requests to amend the Conceptual Plans.

2. **Amendment to Section 2.b.** The parties agree Section 2.b of the Development Agreement shall be amended to read as follows:

b. *Construction Obligation.* Developer agrees to construct the Street Extension pursuant to approved Conceptual Plans by June 30, 2020 ~~the earlier of (a) within twelve (12) months after the City approves the Street Extension component of the Conceptual Plans and executes any related exchange agreement (b) within three (3) years after the Effective Date.~~ Developer will pay all design, permit, construction, inspection and dedication expenses related to the Street Extension; provided, however, Developer may pursue any available incentives, reimbursements or cost sharing available. The Street Extension will be deemed complete upon completion of the Street Extension improvements identified in the

approved Conceptual Plans; provided, however, if the Street Extension is to be dedicated to ACHD, the Street Extension will be deemed complete on its acceptance by ACHD.

3. **Amendment to Section 4.e.** In the fourth (4<sup>th</sup>) line of Section 4.e, replace the terms “within five (5) years from the Effective Date” to “by January 1, 2023.”

4. **Amendment to Exhibit D.** Add the following sentence to Section B.3 of Exhibit D: “Market value will include the effect (if any) of the relevant easements, covenants, restrictions, encumbrances, leases, contracts, declarations, special assessments, entitlements, development agreements and other similar matters affecting title to the Lot, all in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) then currently in effect.”


5. **Miscellaneous.** All capitalized terms herein shall have the meaning set forth in the Agreement unless expressly modified by this Amendment. All sections and content of the Agreement not specifically amended in this Amendment shall remain in full force and effect. This Amendment shall be recorded in the official records of Ada County related to the Property.

[ end of text; signature page follows ]

DATED effective as of the Effective Date.


“City”

**CITY OF BOISE CITY**, an Idaho municipal corporation

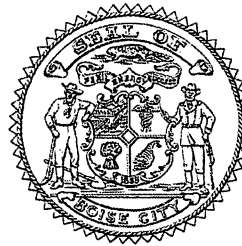
By:   
David H. Bieter  
Mayor

Date: 11/27/18

ATTEST:

By:   
Lynda Lowry  
Ex Officio City Clerk

Date: 11/27/18



“Developer”

**The Whitewater Project, LLC**, a Delaware limited liability company

By: \_\_\_\_\_  
Casey Lynch  
Authorized Agent

Date: \_\_\_\_\_

DATED effective as of the Effective Date.

"City"

**CITY OF BOISE CITY**, an Idaho municipal corporation

By:

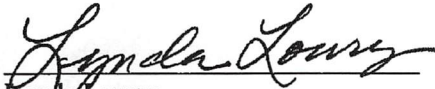


David H. Bieter  
Mayor

Date: 11/27/18

ATTEST:

By:



Lynda Lowry  
*Ex Officio* City Clerk

Date: 11/27/18



"Developer"

**The Whitewater Project, LLC**, a Delaware limited liability company

By:



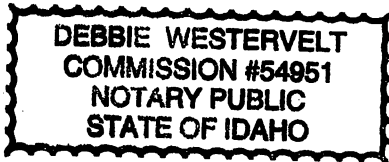
Casey Lynch  
Authorized Agent

Date:

12/5/18

STATE OF IDAHO     )  
                                  ) ss.  
County of Ada         )

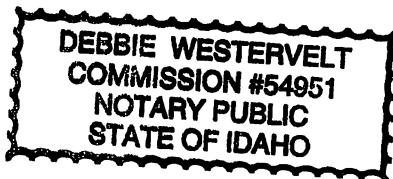
This record was signed before me on November 27th, 2018 by David Bieter as Mayor of the City of Boise City.



Debbie Westervelt  
Notary Signature   Debbie Westervelt

STATE OF IDAHO     )  
                                  ) ss.  
County of Ada         )

This record was signed before me on November 27th, 2018 by Lynda Lowry as *Ex Officio* City Clerk of the City of Boise City.



Debbie Westervelt  
Notary Signature   Debbie Westervelt

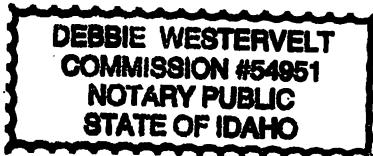
STATE OF IDAHO     )  
                                  ) ss.  
County of Ada         )

This record was signed before me on \_\_\_\_\_ by Casey Lynch as Authorized Agent of The Whitewater Project, LLC.

\_\_\_\_\_  
Notary Signature

STATE OF IDAHO     )  
                                  ) ss.  
County of Ada         )

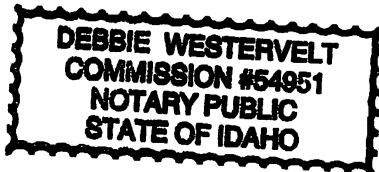
This record was signed before me on November 27th, 2018 by David Bieter as Mayor of the City of Boise City.



Debbie Westervelt  
Notary Signature   Debbie Westervelt

STATE OF IDAHO     )  
                                  ) ss.  
County of Ada         )

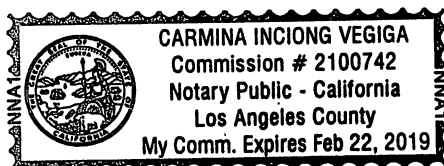
This record was signed before me on November 27th, 2018 by Lynda Lowry as *Ex Officio* City Clerk of the City of Boise City.



Debbie Westervelt  
Notary Signature   Debbie Westervelt

*CARMINA*  
STATE OF IDAHO     )  
                                  ) ss.  
*Los Angeles*  
County of Ada         )

This record was signed before me on December 5, 2018 by Casey Lynch as Authorized Agent of The Whitewater Project, LLC.



\_\_\_\_\_  
Notary Signature